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ORACLE AMERICA, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.

Plaintiff,

v.

GOOGLE INC.

Defendant.

Case No. CV 10-03561 WHA

**OUTLINE OF ORACLE AMERICA,
INC.'S MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF ITS RULE 50(A)
MOTION AT THE CLOSE OF ALL
EVIDENCE**

Dept.: Courtroom 8, 19th Floor
Judge: Honorable William H. Alsup

I. INTRODUCTION

II. STATEMENT OF FACTS

III. LEGAL STANDARD FOR JUDGMENT AS A MATTER OF LAW

IV. NO REASONABLE JURY COULD FIND THAT GOOGLE DID NOT INFRINGE ORACLE'S JAVA-RELATED COPYRIGHTS

A. Google Infringes Oracle's Copyrights by Copying the Structure, Sequence, and Organization of the 37 Java API Packages

- 1. Google admitted that it directly copied the structure, sequence, and organization of the 37 Java API packages**
- 2. Google admitted that it had access to the structure, sequence, and organization of the 37 Java API packages**
- 3. Google admitted that the structure, sequence, and organization of the 37 Java API packages and that of the Google Android API packages are substantially similar**

B. Google's Copying Is Not Fair Use

- 1. Google commercially uses the copyrighted work**
- 2. The copyrighted work is creative in nature**
- 3. Google uses key, valuable portions of the copyrighted work**
- 4. Google's use harms the potential market for and value of the copyrighted work**
- 5. Google's copying does not serve a transformative purpose**

C. Google's Copying of the Structure, Sequence, and Organization of the 37 Java API Packages Was Not De Minimis

D. Google's Literal Copying of Code and Comments Was Not De Minimis

V. OTHER ISSUES THAT ARE NOT BEING PRESENTED TO THE JURY

A. Oracle Owns Valid Copyrights in Java-Related Works

B. Google Copied Original Elements of Java-Related Works

C. Google Infringes Oracle's Copyrights by Copying the Structure, Sequence, and Organization of the Documentation for 37 Java API Packages into the Documentation for the 37 Google Android API Packages

D. Google Infringes Oracle's Copyrights by Deriving Its Implementations of the 37 Google Android API Packages from the Documentation for the 37 Java API Packages

VI. GOOGLE'S EQUITABLE DEFENSES FAIL

- A. Google Has Not Shown that Equitable Estoppel Bars Oracle's Copyright Infringement Claims**
- B. Google Has Not Shown that the Doctrine of Laches Applies to Oracle's Copyright Infringement Claims**
- C. Google Has Not Shown that Oracle or Sun Waived Its Right to Assert Copyright Infringement Claims**
- D. Google Has Not Shown that Oracle or Sun Gave It an Implied License to Use Oracle's Copyrights**

VII. ALTERNATIVE GOOGLE DEFENSES THAT GOOGLE PLED BUT DID NOT PRESENT TO THE JURY FAIL

- A. Google Has Not Shown that Merger Doctrine Applies**
- B. Google Has Not Shown that Scenes A Faire Doctrine Applies**
- C. Google Has Not Shown that Oracle or Sun Gave It a License to Use Oracle's Copyrights**
- D. Google Has Not Shown that It Independently Created the Accused Works**
- E. Google Has Not Shown that a Third Party Is Liable for Google's Infringing Conduct**
- F. Google Has Not Shown that Oracle's Copyright Infringement Claims Are Subject to the Doctrine of Unclean Hands**

VIII. CONCLUSION

Dated: April 29, 2012

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By: /s/ Daniel P. Muino

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